IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (FOR ENHANCEMENT) NO. 1401 of 2013
With
R/CRIMINAL APPEAL NO. 1195 of 2013
With
R/CRIMINAL APPEAL NO. 1203 of 2013
With
R/CRIMINAL APPEAL NO. 1255 of 2013
With
R/CRIMINAL APPEAL NO. 1412 of 2013
With
R/CRIMINAL APPEAL NO. 1421 of 2013

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA
and
HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No

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STATE OF GUJARAT
Versus
SANJAY ALIAS HARPALSINH ALIAS SANGO VIRAKMSINH ZALA & ORS.

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Appearance:
MR PRANAV DAGHAT APP for the Appellant(s) No. 1
HCLS COMMITTEE(4998) for the Opponent(s)/Respondent(s) No. 1,2,3
MR S M VATSA(6000) for the Opponent(s)/Respondent(s) No. 4
MR.MRUDUL M BAROT(3750) for the Opponent(s)/Respondent(s) No. 1,2,3

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 03/09/2025
ORAL JUDGMENT
(PER : HONOURABLE MR.JUSTICE P. M. RAVAL)

1. Criminal Appeal no. 1401 of 2013 is filed by the State of Gujarat against original Accused namely Sanjay @ Harpalsinh @ Sango Vikramsinh Zala, Indrajitsinh @ Chakabhai Pravinsinh Vala,

Digvijaysinh @ Lalubhai Pravinsinh Vala and Ashok Kalpnath Mishra under Section 377 of the Code of Criminal Procedure (hereinafter referred to as the "CRPC") for enhancement of sentence under Section 324, 326 read with Section 148 of the IPC vide judgment and order dated 30.07.2013 passed by the Ld. Additional Sessions Judge, Court No. 2, Ahmedabad city in Sessions case No. 346 of 2005 with Sessions Case No. 368 of 2005.

2. Criminal Appeal No. 1412 of 2013 is filed by the State of Gujarat against original Accused Sanjay @ Harpalsinh @ Sango Vikramsinh Zala, Indrajitsinh @ Chakabhai Pravinsinh Vala, Digvijaysinh @ Lalubhai Pravinsinh Vala and Ashok Kalpnath Mishra under Section 378(1)(3) of the CRPC against the acquittal under Section 307, 325,452,427,397 and 506(1) read with Section 149 of the IPC vide judgment and order dated 30.07.2013 passed by the Ld. Additional Sessions Judge, Court No. 2, Ahmedabad city in Sessions case No. 346 of 2005 with Sessions Case No. 368 of 2005.

3. Criminal Appeal No. 1421 of 2013 is filed by original complainant Shivpratap Rakshpalsinh Bhadoriya against Sanjay @ Harpalsinh @ Sango Vikramsinh Zala, Indrajitsinh @ Chakabhai Pravinsinh Vala, Digvijaysinh @ Lalubhai Pravinsinh Vala, Vargheses Fransis Christian and Ashok Kalpnath Mishra under

Section 372 of the Criminal Procedure Code, 1973 against acquittal of the accused No. 5 from all charges and other accused persons from Section 307, 325 452, 427, 397, 506(1) read with Section 149 of IPC and Section 25(1)(b)(a) of the Arms Act as well as Section 135(1) of the Bombay Police Act.

4. Criminal Appeal No. 1195 of 2013 is filed by original Accused Indrajitsinh @ Chakabhai Pravinsinh Vala and Digvijaysinh @ Lalubhai Pravinsinh Vala against the order of conviction imposed vide judgment and order dated 30.07.2013 passed by the Ld. Additional Sessions Judge, Court No. 2, Ahmedabad city in Sessions case No. 346 of 2005 with Sessions Case No. 368 of 2005.

5. Criminal Appeal No. 1203 of 2013 is filed by original Accused Sanjay @ Harpalsinh @ Sango Vikramsinh Zala under Section 374(2) of the CRPC against the order of conviction imposed vide judgment and order dated 30.07.2013 passed by the Ld. Additional Sessions Judge, Court No. 2, Ahmedabad city in Sessions case No. 346 of 2005 with Sessions Case No. 368 of 2005.

6. Criminal Appeal No. 1255 of 2013 is filed by original Accused Ashok Kalpnath Mishra against the order of conviction imposed vide judgment and order dated 30.07.2013 passed by the Ld. Additional Sessions Judge, Court No. 2, Ahmedabad city in Sessions

case No. 346 of 2005 with Sessions Case No. 368 of 2005.

Learned Additional Sessions Judge, Court No. 2, Ahmedabad City vide judgment and order dated 30.07.2013 has convicted Orig. accused No.1 Sanjay @ Harpalsinh @ Vikramsinh Zala, Orig. accused No.2 Indrajitsinh Chakabhai Pravinsinh Vala, Orig. accused No.3 Digvijaysinh @ Lalubhai Pravinsinh Vala, and Orig. accused No.6 Ashok Kalpnath Mishra under Section 148 IPC, sentencing them to rigorous imprisonment for 1 (One) year and fine of Rs.500/- each, in default, 1 (One) month R.I. They were further convicted under Section 326 IPC, sentenced to 2 (Two) years 6 (Six) months R.I. and fine of Rs.1500/- each, in default, 3 (Three) months R.I. They were also convicted under Section 324 IPC, sentenced to 1 (One) year 6 (Six) months R.I. and fine of Rs.500/- each, in default, 1 (One) month R.I. It is further ordered that all sentences shall run concurrently. However, Learned Judge acquitted the accused under Section 307 r/w 149 IPC vide judgment and order dated 30.07.2013 in Sessions Case No.346/2005 with Sessions Case No.368/2005. The case against Orig. accused No.4 Dharmendrasinh @ Armywalo Viramsinh Zala was separated (vide Exh.45). Orig. accused No.5 Varghese Fransis Christian was acquitted of all charges.

7. The brief facts of the prosecution case is that the complainant

Ramshivnaresh Ramapalsinh Bhadoria registered complaint against present accused before the Meghaninagar Police Station for the offences punishable Under sections 147,148,452, 427, 294 (B) 397, 307, 323,324, 325, 326, 506(1) read with 149 of the Indian Penal Code, Section 25(1)(B) (A) of the Arms Act and Section 135 of Bombay Police Act. The FIR has been lodged by the Complainant - Ramshivnaresh Rampalsinh on 18.05.2004 at Civil Hospital, Emergency Ward, Ahmedabad at about 02.00 to 03.00 p.m. before PSI Shri M.H. Puvar. In complaint the complainant has interalia stated that today at about 09.30to 09.45 a.m. Chakabhai TV Channelwala and Lalubhai were passing near their house and at that time his father - Rakshpalsinh Ransinh and he had told them that they cannot see TV channels properly as their TV Channels networking is not working properly since 3 to 4 days and on saying this, they both started quarreling with them and had abused them with filthy words and were accompayned by (1) Ashok Kalpnath Mishra (2) Sanjay Zala and (3) brother of Sanjay. The complainant has further stated that during the scuffle his wife Ragini and his mother Kamlaben and his brother Shivkumar and Shivpratapsinh had tried to rescue them and at that time Lalubhai -Brother of Chakabhai,who had hockey in his hand, assaulted his mother Kamlaben and also assaulted his wife Raginiben on right hand and leg. At that time brother of Sanjay who is serving in Army, had a sword in his hand and he had assaulted Shivkumar by sword and

Shivpratapsinh on his head and palm of left hand. At that time other 22 to25 persons who were with these 5persons had damaged their house and had caused damages to the tune of Rs.1000/-. The complainant has further stated that during this quarrel and scuffle, his golden chain of two Tola which he was wearing in his neck has disappeared. The complainant has further stated that police control was informed by phone and as his father, his brothers – Shivkumar and Shivpratapsinh, his mother, all had suffered much injuries, they all had been shifted in Civil Hospital for medical treatment. The complainant has further stated that he is also under treatment in Civil Hospital. The complainant has further stated at the time of incident he had also seen that there was a weapon like revolver in the hands of Ashok KalpnathMishra and Sanjay Zala.

8. On the basis of the complaint, investigation was carried out and chargesheet was filed against the accused persons since, the case was Sessions triable, the same was committed to Sessions Court. Thereafter, charges were framed against the accused persons and was explained to them to which, the accused pleaded not guilty and claimed to be tried. After filing of the closing purshis by the prosecution further statement under provisions of Section 313 of CRPC of the accused persons came to be recorded and after hearing the Ld. Advocate for the respective parties, the Trial Court has passed the judgment and order dated 30.07.2013 in Sessions

case No. 346 of 2005 with Sessions Case No. 368 of 2005 convicting the accused persons hence the present appeals.

9. Ld. Advocate Mr Abhishek Mehta for Accused No. 1 Sanjay @ Harpalsinh @ Sango Vikramsinh Zala, Mr. Ruturaj Nanavati with Mr. Anuj K. Trivedi for Accused No. 2 Indrajitsinh @ Chakabhai Pravinsinh Vala, with Mr. Neeraj Soni for Accused No. 3 Digvijaysinh @ Lalubhai Pravinsinh Vala, and Mr. S M Vatsa for Accused No. 6 Ashok Kalpnath Mishra, would submit that the matter has been settled outside the Court. The Criminal Appeal No. 1421 of 2013 filed by the Complainant / Victim has filed Affidavit to the effect that by passage of time, the dispute and bitterness between the accused and the injured persons as well as complainant have calm down and as on today there is no dispute between them and have withdrawn their appeal for enhancement of sentence. In view of the same, it is argued that the complaint and the accused are residing in the same vicinity and after a passage of time, there is no bitterness between the parties nor there is any untoward incident during the interregnum period and has argued to disposed of the appeals for sentence already undergone by them.

10. Ld. Advocate Mr. Harnish Darji states that he has instruction on behalf of the complainant. That he has instructions to withdraw Criminal Appeal No. 1421 of 2013 and has also placed it on record

affidavit to that effect. The affidavits in all the Appeals interalia states that the parties are residing in the same vicinity and there is no bitterness between them nor any dispute has arisen between the accused persons and the claimant as well as their family members and also admits that the parties have settled the matter outside the Court.

11. Ld. APP Mr. Pranav Dhagat would submit that the Appellant – accused are involved in serious crime by taking law in their hands and had attacked the complainant side for which they have been convicted and the said offence is not compoundable in nature and therefore, has objected for accepting the compromise between the Appellant accused and the Org. Complainant who is also appellant before this Court for enhancement along with the appeals of state for enhancement and against acquittal.

12. Heard Ld. Advocates for the respective parties. We have perused the record and proceedings of the case as well as the impugned judgment. It appears that the some of the accused persons are residing in the vicinity where the complainant is residing whereas some of the accused are residing in the same society where the complainant is residing and the entire incidence has taken place out of a small quarrel due to improper functioning of TV Channels since 2-3 days from the date of the alleged

incidence.

13. During the pendency of the present appeals as stated above, the Appellant – Accused and Org. Complainant as well as the victims have entered into compromise, however, Section 324 and 326 of the IPC are not compoundable, but this Court while examining the aspect of appropriate sentence, can surely consider the adequacy of it in light of the ratio laid down by the Hon'ble Supreme Court in the case of Manjit Singh Vs. The State of Punjab and another reported in (2020) 18 SCC 777 wherein, it is held that the offence is not compoundable, it would not be appropriate to order compounding the offence, but at the same time, the Hon'ble Apex Court has laid down that while imposing the sentence as well as fixing the fine, it would be appropriate to take into consideration, the compromise.

14. In the case of Manjit Singh (supra), the Hon'ble Supreme Court has held and observed in paragraphs No.13 and 14 as under:-

> *"5. Section 307 I.P.C. is a non-compoundable offence. No permission can be granted to record the compromise between the parties. In Ishwar Singh v. State of Madhya Pradesh, (2008) 15 SCC 667, the Supreme Court of India has held that in a non-compoundable offence the compromise entered into between the parties is indeed a relevant circumstance which the Court may keep in mind for considering the quantum of sentence. In*

Paras (13) and(14) of the judgment in Ishwar Singh (supra) this Court has held as under:"13. In Jetha Ram v. State of Rajasthan, (2006) 9 SCC 255,Murugesan v. Ganapathy Velar, (2001) 10 SCC 504 andIshwarlal v. State of M.P., (2008) 15 SCC 671, this Court,while taking into account the fact of compromise between the parties, reduced sentence imposed on the appellant accused to already undergone, though the offences were not compoundable. But it was also stated that in Mahesh Chand v. State of Rajasthan, 1990 Supp. SCC 681 such offence was ordered to be compounded.14. In our considered opinion, it would not be appropriate to order compounding of an offence not compoundable under the Code ignoring and keeping aside statutory provisions. In our judgment, however, limited submission of the learned counsel for the appellant deserves consideration that while imposing substantive sentence,the factum of compromise between the parties is indeed a relevant circumstance which the Court may keep in mind."As noted earlier, in the present case the appellant accused, Manjit Singh, has been sentenced to undergo imprisonment for five years. The appellant is said to have served seventeen months of imprisonment. Taking note of the compromise entered into between the parties and considering the relationship of the parties and the facts and circumstances of the case and also the sentence undergone by the appellant accused, the sentence of imprisonment imposed upon the appellant under Sections307 and 324 I.P.C. is reduced from five years/two years to the period already undergone by him. The appellant is ordered to be released forthwith unless his presence is required in any other case. In view of the compromise entered into between the parties, the fine amount of Rs.50,000/- imposed upon the appellant is set aside. If the said fine amount has already been paid, the same shall be refunded to the appellant-Manjit Singh."

15. In the case of Syed Azhar Syed Kalandar v. State of Maharashtra, reported in (2022) 14 SCC 527 the Hon'ble

Supreme Court has held and observed in paragraphs No.11 to 14 as under:-

> *"11. In almost the same circumstances which have been noticed by us, a three Judge Bench of this Court in a recent judgment in Murali Vs. State represented by Inspector of Police, 2021(1) SCC 726 where the parties decided to forgive their past and live amicably, this Court has come to their rescue by interfering in the quantum of sentence which obviously is not compoundable under Section 320Cr.P.C. but has interfered since there is no minimum sentence prescribed. This Court in Murali(supra), has taken note of the judgment of this Court in Ram Pujan and OthersVs. State of U.P., 1973(2) SCC 456 which was further followed by this Court in Ishwar Singh Vs. State of M.P .3and the later decisions as referred to in paras 11 and 12 of the judgment has taken note of the compromise between the parties to reduce the sentence of the convicts even in serious non compoundable offences. The relevant paras areas follows:"*
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> *11. In later decisions including in Ram Lal v. State of J&K(1999) 2 SCC 213; Bankat v. State of Maharashtra (2005) 1SCC 343; Mohar Singh v. State of Rajasthan (2015) 11 SCC226; Nanda Gopalan v. State of Kerala (2015) 11 SCC 137;Shankar v. State of Maharashtra (2019) 5 SCC 166, this Court has taken note of the compromise between parties to reduce the sentence of the convicts even in serious non compoundable offences.*
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> *12. Given this position of law and the peculiar circumstances arising out of subsequent events, we are of the considered opinion that it is a fit case to take a sympathetic view and reconsider the quantum of sentences awarded to the appellants. We say so because:first, the parties to the dispute have mutually buried their hatchet. The separate affidavit of the victim inspires confidence that the apology has voluntarily been accepted given the efflux of time and owing to the maturity brought about by age. There is no question of*

the settlement being as a result of any coercion or inducement. Considering that the parties are on friendly terms now and they inhabit the same society, this is a fit case for reduction of sentence."

12. Taking into consideration the facts of the instant case and the circumstances arising out of the subsequent events, in our opinion, it is a fit case to take a sympathetic view and reconsider the quantum of sentence awarded to the appellant. We have recorded our satisfaction, based on the reasons, that the parties to the dispute have mutually settled their disputes and buried their past.

13. The joint affidavit inspires confidence that the apology as tendered by the appellant has voluntarily been accepted given the efflux of time and is not a result of any coercion or inducement. Considering that they are residing in the same village and are peacefully residing after the uncalled for incident has taken place, in our view, this appears to be a fit case for reduction of sentence.

14. Considering the overall facts on record and other mitigating factors and circumstances in which a crime has been committed including the nature of injury, period during which he remained under medical treatment, mental agony which the victim suffered and also the compromise entered into between the parties, while upholding conviction under Section 307 IPC, we deem it appropriate to reduce the quantum of sentence imposed on the appellant to five years rigorous imprisonment and to pay a fine of Rs. 10,000/and in default of payment of fine shall suffer further three months' rigorous imprisonment. Ordered accordingly."

16. Considering the aforesaid principles and also considering the peculiar circumstances and the subsequent events, we are of the considered opinion that this is a fit case to take a sympathetic view on the quantum of sentence handed down to the Appellants for the reasons:-

(1) The parties to the dispute have buried their differences.

(2) The Affidavit of the complainant and victims reflects the fact that they have voluntarily entered into compromise and the dispute and the bitterness between the parties have calm down and as on today, there is no dispute between them and their family members.

(3) The settlement is not reason of any coercion, threat or inducement.

(4) Considering the fact that the parties have compromised and some of the Appellants – Org. Accused are residing in the same society whereas, some of the co accused near the vicinity peacefully.

(5) During the interregnum period no untoward incident taken place between the parties.

17. Considering the overall facts circumstances of the case and mitigating factors and the manner in which the entire quarrel started and the alleged crime was committed and also considering the nature of the injuries and the compromise entered into between the parties while upholding the conviction, we deemed appropriate to reduce quantum of sentence imposed on the Appellants to the extent of sentence they have already undergone while the fine

imposed remains unaltered.

18. In view of the aforesaid facts and circumstances and the reasons stated herein above, Criminal Appeal No. 1041 of 2013 for enhancement and Criminal Appeal No. 1412 of 2013 against acquittal of the accused are dismissed. Criminal Appeal No. 1421 of 2013 preferred by the Victim – Complainant for enhancement stands disposed of as withdrawn. Criminal Appeal No. 1195 of 2013, Criminal Appeal No. 1255 of 2013 and Criminal Appeal No. 1203 of 2013 are partly allowed to the aforesaid extent.

19. The entire case stands closed. Bail bonds of Appellants stands cancelled and surety stands discharged. R & P sent back to the concerned Trial Court forthwith, if any.

(ILESH J. VORA,J)

(P. M. RAVAL, J)

MMP

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAHENDRA MOHANBHAI PUROHIT(HCD0074), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 03/09/2025 12:14:05